

COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Commerce and Consumer Affairs, to which was referred House Bill No. 1116, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Replace the effective date in SECTION 4 with "[EFFECTIVE
- 2 UPON PASSAGE]".
- 3 Page 1, delete lines 1 through 17.
- 4 Delete pages 2 through 6.
- 5 Page 7, delete lines 1 through 32.
- 6 Page 7, line 35, delete "As used in this section, "utility" means:" and
- 7 insert **"This section does not apply to any of the following:**
- 8 (1) A merchant power plant that has filed a petition with the
- 9 commission under IC 8-1-2.5 before March 1, 2002, seeking
- 10 an order that the commission decline to exercise, in whole or
- 11 in part, its jurisdiction over the merchant power plant. This
- 12 section does not apply to the expansion of a merchant power
- 13 plant described in this subdivision if the expansion occurs at
- 14 the same site.
- 15 (2) A corporation operating under IC 8-1-13.
- 16 (3) A nonprofit corporation most of whose members are
- 17 operating under IC 8-1-13.
- 18 (4) A joint agency created and operating under IC 8-1-2.2.
- 19 (b) As used in this section, "merchant power plant" means a
- 20 facility within Indiana used for the:
- 21 (1) production of electric energy; and

(2) sale of electric energy exclusively on the wholesale market to other public utilities, energy service providers, or power marketers within or outside Indiana.

(c) A merchant power plant is subject to the jurisdiction of the commission.

(d) For any petition filed by a merchant power plant under IC 8-1-2.5 or IC 8-1-8.5, the commission may consider the following:

(1) Location of the merchant power plant.

(2) Need for the electricity to be generated or other benefits to be provided by the merchant power plant.

(3) Effect of the merchant power plant on electric, water, and natural gas suppliers and customers.

(4) Financing for the merchant power plant.

(5) Other factors the commission considers relevant."

Page 7, delete lines 36 through 42, begin a new paragraph and insert:

"SECTION 2. IC 8-1-8.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.8. Utility Generation and Clean Coal Technology

Sec. 1. (a) The general assembly makes the following findings:

(1) Growth of Indiana's population and economic base has created a need for new energy generating facilities in Indiana.

(2) The development of a robust and diverse portfolio of energy generating capacity, including the use of renewable energy resources, is needed if Indiana is to continue to be successful in attracting new businesses and jobs.

(3) Indiana has considerable natural resources that are currently underutilized and could support development of new energy generating facilities at an affordable price.

(4) Certain regions of Indiana, such as southern Indiana, could benefit greatly from new employment opportunities created by development of new energy generating facilities utilizing the plentiful supply of coal from the geological formation known as the Illinois Basin.

(5) Technology can be deployed that allows high sulfur coal from the geological formation known as the Illinois Basin to be burned efficiently while meeting strict state and federal air quality limitations. Specifically, the state should encourage the use of advanced clean coal technology, such as coal gasification.

(6) It is in the public interest for the state to encourage the construction of new energy generating facilities that increase the in-state capacity to provide for current and anticipated energy demand at a competitive price.

(b) The purpose of this chapter is to enhance Indiana's energy security and reliability by ensuring all the following:

(1) Indiana's energy generating capacity continues to be adequate to provide for Indiana's current and future energy needs, including the support of the state's economic development efforts.

(2) The vast and underutilized coal resources of the Illinois Basin are used as a fuel source for new energy generating facilities.

(3) The electric transmission system in Indiana is upgraded to distribute additional amounts of electricity more efficiently.

(4) Jobs are created as new energy generating facilities are built in regions throughout Indiana.

Sec. 2. As used in this chapter, "clean coal and energy projects" means any of the following:

(1) Any of the following projects:

(A) Projects at new energy generating facilities that employ the use of clean coal technology and that are fueled primarily by coal or gases derived from coal from the geological formation known as the Illinois Basin.

(B) Projects to provide advanced technologies that reduce regulated air emissions from existing energy generating plants, such as flue gas desulfurization and selective catalytic reduction equipment.

(C) Projects to provide electric transmission facilities.

(2) Projects to develop alternative energy sources, including renewable energy projects.

(3) The purchase of fuels produced by a coal gasification facility.

Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric generating facility and directly or indirectly reduces airborne emissions of sulfur, mercury, or nitrogen oxides or other regulated air emissions associated with the combustion or use of coal; and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of

January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

Sec. 4. As used in this chapter, "coal gasification facility" means a facility in Indiana that uses a manufacturing process that converts coal into a clean gas that can be used as a fuel to generate energy.

Sec. 5. As used in this chapter, "costs associated with qualified utility system property" means capital, operation, maintenance, depreciation, tax costs, and financing costs of or for qualified utility system property.

Sec. 6. As used in this chapter, "eligible business" means an energy utility (as defined in IC 8-1-2.5-2) that:

- (1) proposes to construct, repower, or acquire a new energy generating facility;
- (2) proposes to construct, repower, or acquire a project described in section 2(1) of this chapter;
- (3) undertakes a project to develop alternative energy sources, including renewable energy projects; or
- (4) purchases fuels produced by a coal gasification facility.

Sec. 7. As used in this chapter, "group" refers to the forecasting group established by IC 8-1-8.5-3.5.

Sec. 8. (a) As used in this chapter, "new energy generating facility" refers to a facility that satisfies all the following:

- (1) The facility is a:
 - (A) newly constructed, newly repowered, or newly acquired energy generation plant; or
 - (B) newly constructed generation capacity expansion at an existing facility;
 dedicated primarily to serving Indiana retail customers.
- (2) The acquisition, repowering, construction, or expansion of the facility was completed by an Indiana utility after July 1, 2001.
- (3) The facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.

(b) The term includes the transmission lines and associated equipment that transfers energy from points of supply to points of delivery.

1 **Sec. 9. As used in this chapter, "qualified utility system**
2 **property" means any new energy generating facility used, or to be**
3 **used, in whole or in part, on a utility system to provide retail**
4 **energy service (as defined in IC 8-1-2.5-3) regardless of whether**
5 **the service is provided under IC 8-1-2.5 or another provision of**
6 **this article.**

7 **Sec. 10. (a) As used in this chapter, "renewable energy**
8 **resources" means alternative sources of renewable energy,**
9 **including the following:**

- 10 **(1) Energy from wind.**
- 11 **(2) Solar energy.**
- 12 **(3) Photovoltaic cells and panels.**
- 13 **(4) Dedicated crops grown for energy production.**
- 14 **(5) Organic waste biomass.**
- 15 **(6) Hydropower from existing dams.**

16 **(b) The term does not include energy from the incineration,**
17 **burning, or heating of any of the following:**

- 18 **(1) Waste wood.**
- 19 **(2) Tires.**
- 20 **(3) General household, institutional, commercial, industrial**
21 **lunchroom, office, or landscape waste.**
- 22 **(4) Construction or demolition debris.**

23 **Sec. 11. (a) The commission shall encourage clean coal and**
24 **energy projects by creating the following financial incentives for**
25 **clean coal and energy projects:**

- 26 **(1) The timely recovery of costs incurred during construction**
27 **and operation of projects described in section 2(1) of this**
28 **chapter.**
- 29 **(2) The authorization of up to three (3) percentage points on**
30 **the overall rate of return that would otherwise be allowed to**
31 **be earned on projects described in subdivision (1).**
- 32 **(3) Financial incentives for the purchase of fuels produced by**
33 **a coal gasification facility, including cost recovery and the**
34 **incentive available under subdivision (2).**
- 35 **(4) Financial incentives for projects to develop alternative**
36 **energy sources, including renewable energy projects.**
- 37 **(5) Other financial incentives the commission considers**
38 **appropriate.**

39 **(b) An eligible business must file an application to the**
40 **commission for approval of a clean coal and energy project under**
41 **this section.**

42 **(c) The commission shall promptly review an application filed**

under this section for completeness. The commission may request additional information the commission considers necessary to aid in its review.

(d) The commission shall issue a determination of a project's eligibility for the financial incentives described in subsection (a) not later than ninety (90) days after the date of the application.

Sec. 12. (a) The commission shall provide financial incentives to eligible businesses for new energy generating facilities in the form of timely recovery of the costs incurred in connection with the construction, acquisition, repowering, expansion, operation, or maintenance of the facilities.

(b) An eligible business seeking authority to timely recover the costs described in subsection (a) must apply to the commission for approval of a rate adjustment mechanism in the manner determined by the commission.

(c) An application must include the following:

(1) A schedule for the completion of construction, repowering, acquisition, or expansion of the new energy generating facility for which rate relief is sought.

(2) Copies of the most recent integrated resource plan filed with the commission.

(3) The amount of capital investment by the eligible business in the new energy generating facility.

(4) Other information the commission considers necessary.

(d) The commission shall allow an eligible business to recover the costs associated with qualified utility system property if the eligible business provides substantial documentation that the expected costs associated with qualified utility system property and the schedule for incurring those costs are reasonable.

(e) The commission shall allow an eligible business to recover the costs associated with the purchase of fuels produced by a coal gasification facility if the eligible business provides substantial documentation that the costs associated with the purchase are reasonable.

(f) A retail rate adjustment mechanism proposed by an eligible business under this section may be based on actual or forecasted data. If forecast data is used, the retail rate adjustment mechanism must contain a reconciliation mechanism to correct for any variance between the forecasted costs and the actual costs.

Sec. 13. An eligible business shall file a monthly report with the department of commerce stating the following information:

(1) The amount of Illinois Basin coal, if any, purchased during

1 the previous month for use in a new energy generating
2 facility.

3 (2) The amount of any fuel produced by a coal gasification
4 facility and purchased by the eligible business during the
5 previous month.

6 (3) Any other information the department of commerce may
7 reasonably require.

8 **Sec. 14. The group shall conduct an annual study on the use,**
9 **availability, and economics of using renewable energy resources in**
10 **Indiana. Each year, the group shall submit a report on the study to**
11 **the commission for inclusion in the commission's annual report to**
12 **the regulatory flexibility committee described in IC 8-1-2.5-9 and**
13 **IC 8-1-2.6-4. The report must include suggestions from the group**
14 **to encourage the development and use of renewable energy**
15 **resources and technologies appropriate for use in Indiana."**

16 Delete pages 8 through 12.

17 Page 13, delete lines 1 through 28.

18 Renumber all SECTIONS consecutively.

(Reference is to HB 1116 as reprinted February 6, 2002.)

and when so amended that said bill do pass .

Committee Vote: Yeas 8, Nays 1.

Senator Server, Chairperson